THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 11260 of 2006

Oral order:

On the ground that the petitioner has been arrested on 06.10.2005 in connection with his alleged involvement in a criminal case, the respondent-University vide orders passed in Memo dated 10.11.2005 placed the petitioner under suspension in exercise of powers under sub-rules (1), 1(c), (2) and (2)(a) of Rule 8 of A.P. (C.C.A.) Rules, 1991, until further orders.

The learned counsel for the petitioner submitted that the respondent-University is an autonomous body, and since the petitioner is an employee of the said University, the A.P. (C.C.A.) Rules, 1991 (for short 'the CCA Rules') which are applicable to government employees, are not applicable to the petitioner, and as such, the action of the respondent in invoking the provisions of the CCA Rules, for placing the petitioner under suspension, is without any authority of law. He submitted that the petitioner has been placed under suspension on the ground that he is involved in a criminal case lodged by his wife, and the said offence having nothing to do with the day to day discharge of the petitioner nor the petitioner having committed any irregularities in the discharge of his duties, the respondent is required to consider whether the said offence has any impact on the petitioner continuing in service, justifying the continuance of suspension. In support of this argument, he placed reliance on the judgment of a Division Bench of this Court in **P. Rajender v. Union of India**[1] and a judgment of a learned Judge of this Court in **Ayesha Fathima v. A.P. State Minorities Finance Corporation**[2]. He submitted that since the

offence alleged against the petitioner in the criminal case has nothing to do with the day to day discharge of his duties, he prayed that the respondent be directed to review the continuation or otherwise of his suspension.

The respondent filed counter. The learned Standing Counsel for the respondent-University reiterating the counter-averments submitted that the Board of the respondent-University vide resolution No. 6635, dated 28.07.2001, resolved to adopt the CCA Rules, and in pursuance of the said resolution, the respondent-University, vide Memo dated 16.08.2001, adopted the CCA Rules, as amended from time to time, in respect of employees of the University. He submitted that as per sub-rule (1)(c) and (d) of Rule 8 of CCA Rules, an employee can be placed under suspension if a case against him in respect of any criminal offence is under investigation, inquiry or trial, even if the charge does not have any bearing on the discharge of his official duties, as per sub-rule (2)(c) of Rule 8 of the CCA Rules, an employee is deemed to have been placed under suspension if he was detained for more than 48 hours in connection with a criminal case, and as per sub-rule (2)(c) of Rule 8 of the CCA Rules, the order of suspension shall be in operation until termination of the criminal proceedings. He submitted that in view of adoption of CCA Rules, and having regard to the fact that the petitioner was involved in a criminal case, the respondent-University in exercise of the powers under CCA Rules, placed the petitioner under suspension until further orders, and no exception can be taken thereto. He thus prayed that the writ petition be dismissed.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent-University.

I am unable to agree with the submission of the petitioner that

since he is an employee of the University, which is an autonomous body, the CCA Rules, which are applicable to government employees, are not applicable to him, and as such, the respondent could not have invoked the provisions of CCA Rules for placing him under suspension, for the simple reason that the Board of the respondent-University in their resolution

No. 6635, dated 28.07.2001 have resolved to adopt the CCA Rules in respect of the employees of the University also, and in pursuance of the said resolution, the respondent-University, issued Memo dated 16.08.2001, adopting the CCA Rules, as amended from time to time, to its employees also. In view of adoption of the CCA Rules by the respondent-University to its employees also, the petitioner cannot be allowed to contend that the respondent-University could not have invoked the provisions of the CCA Rules, for placing him under suspension.

Now that it has become clear that the respondent-University has the power to initiate disciplinary proceedings against its employees in exercise of powers under the CCA Rules, it may be noticed whether there is any element of public interest involved, which justifies the respondent to continue the petitioner under suspension. The petitioner, admittedly, has been placed under suspension on the ground that he has been involved in criminal case, lodged by his wife, for the offences punishable under Sections 498-A, 302 and 506 r/w Section 309 IPC. The offences alleged against the petitioner in the criminal case and the ground on which he has been placed under suspension, have nothing to do with his day to day discharge of his duties, and in such, circumstances, it has be seen whether the continuation of the petitioner under suspension is in public interest or whether non-continuance under suspension, has any impact on his

day to day discharge of his duties.

In fact, a Division Bench of this Court, having considered similar issue, as is involved in this case, in **P. Rajender v. Union of India**, held as follows:

> Suspension pending investigation, inquiry or trial is interim in nature. The aforementioned rule clearly suggests that an order of suspension is not required to be passed only because it will be lawful to do so. An application of mind on the part of the competent authority is sine qua non for passing such order of suspension, therefore, it is expected that the appropriate authority shall not only take into consideration the public interest but shall also take into consideration the relevant facts and attendant circumstances as to how far and to what extent the public interest may suffer if he delinquent officer is not placed under suspension.

The petitioner, admittedly, was placed under suspension on 10.11.2005. The suspension of the petitioner not being in connection with any irregularities committed by him while discharging his official duties, but being in connection with a criminal case has been registered against him, for the offences under Sections 498-A, 302 and 506 r/w Section 309 IPC, which offences, admittedly, do not have any bearing on the discharge of official duties by the petitioner, I am of the considered opinion that the ends of justice would be met, if the respondent is directed to review the case of the petitioner for revocation of suspension.

Hence, I deem it appropriate to dispose of the writ petition with the following directions:

The respondent-University is directed to review the case of the petitioner for revocation of his suspension in the light of the judgments of this Court, referred to in the body of the order, and pass appropriate orders thereon, expeditiously. No costs.

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N.V. RAMANA, J.

Dated: 15th March, 2007.
KSR

[1] 2001 (5) ALD 290 (DB)

[2] 2006 (3) ALD 252